

Comments: Issues - Title II - Restrictions (15 Mar. 78)
(Keyed to Issues Paper Paragraphs)

5. I do not understand your comment, there are no Sections 241 through 246 in Title I.

6. The term "confidential records" as printed in S-2525 is inadequate. I believe your fix is an improvement but I raise the question, should we delete the word "material" used in the Bill? I am uncertain what the drafters had in mind by including the word but I find it is broadening to the definition and we lose nothing by keeping it. I also raise the point of limiting the definition to "prohibited by law". Information is now classified according to EO 11652, soon to be replaced.

15. I believe your suggested change would lead to confusion. The drafters wrote Part B for "Collection" and Part C for "retention and dissemination".

24. The suggested addition of a new paragraph (5) to Section 214, I believe adds confusion since Section 214 addresses the collection of information concerning U.S. persons and Section 219 addresses the collection of foreign information in the possession of U.S. persons.

26. I prefer to leave paragraph (1) of Section 215 as stated. By including tax records in paragraph (5) you must include the phrase "in accordance with applicable law" and by so doing you are limiting the requests for all of the other types of information desired "to applicable law". The other types of information listed may be requested and obtained by a "written finding of the AG or ..."

29. As I understand Section 216 (b) collection may continue beyond 180 days upon the written finding of a designated official of the intelligence community. This could mean "forever". Your suggested change would require "renewal" every 90 days, why impose additional administrative burden when the drafters provide an open-ended provision?

30. Section 216 (c) deals only with Members of the Armed Forces. If the drafters were only concerned with the Armed Forces why do we wish to add the administrative burden on all intelligence community entities for all employees?

34. Section 219 (3) should not limit the collection of information in the possession of U.S. persons only to interviews of other persons. Other techniques are available and should be used and provisions for approval be provided.

37. See my comments above in paragraph 26 concerning your suggested change for Section 222 (c), (1) and (5).

38. I believe that the separation of Section 225 paragraphs (1) and (2) is desirable and serves clarity, rather than combining the two paragraphs as suggested in the issues paper.

46. In order to correct the deficiencies of Section 244 and provide clear understanding and guidance I recommend that a study be made of EO 12036 and the procedures which have been recommended by []/OGC and his working group to implement Sections 2-207 and 2-307 of EO 12036 on Undisclosed Participation in Domestic Organizations. The wording of the implementation procedures are precise and carefully constructed so as to establish clear prohibitions and permitted activities.

48. I believe that the drafters in Section 246 intentionally worded this section to include all research on any human subject and not limit the research to "biomedical and behavioral" as suggested in the issues paper. Current Agency policy includes all research involving human subjects and we find that we can abide by, use and operate within the HEW Guidelines. I do not object to the suggested change but I feel that it will be difficult to change the drafters intent.

49. The amendment to title 18 U.S.C. 2235 is referred to in Section 251 (b) rather than 251 (a) as stated in the issues paper.

50. See my comments above re: paragraph 48 of the issues paper.

53. Agree that Section 256 on Statute of Limitations needs clarifying. However, the Statute of Limitations should not be based on when information is declassified or made available to the public, currently this may be as long as 30 years with extensions, a proposed new EO will state 20 years with extensions.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

78/399/36

FROM:

[Redacted] 6E46, Hqs.

SA/DDS&T

EXTENSION

NO.

DATE

21 March 1978

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1 [Redacted] OGC 7D07, Hqs.

2 [Redacted] OLC 6D15, Hqs.

Per your memo, OGC-78-1620 dated 15 March 78, attached are comments on the issues paper.

CC: [Redacted] /NFAC OLC

Per Leg